

FILED BY *JH* D.C.

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IN THE UNITED STATES DISTRICT COURT
05 MAY - 2 PM 2:05 FOR THE WESTERN DISTRICT OF TENNESSEE, WESTERN DIVISION

15 APR 29 PM 2:18

UNITED STATES OF AMERICA,
CLERK U.S. DIST. CT.
W.D. OF TN., MEMPHIS,
Plaintiff,

Robert R. DiTollo
CLERK U.S. DIST. CT.
W.D. OF TN. MEMPHIS

vs.
LE'ANDRE BARNER,
Defendant.

No. 04-20339

MOTION TO WITHDRAW

Comes now counsel for the Defendant, William D. Massey and Lorna S. McClusky of the Law Office of Massey McClusky and respectfully request that they be allowed to withdraw as counsel for Mr. Barner. The contract regarding representation entered into in this cause specifically excludes appeal or re-trial. The pertinent terms of the agreement are:

APPEAL OR RETRIAL: It is further understood that the fee agreed upon herein does not include services for an appeal or re-trial, if such should become necessary, unless specifically stated herein. **In the event of an appeal or retrial, a new and separate agreement will be entered into by the parties and a new retainer fee paid to THE LAW OFFICE.** THE LAW OFFICE shall be allowed to withdraw from further representation in the event a new retainer fee is not paid within a reasonable time prior to the appeal or retrial. (Emphasis in original.)

A family member retained counsel to represent Mr. Barner at the original trial. While discussions about retaining counsel for the retrial were taking place with Mr. Barner's family, counsel continued to work with Mr. Barner so that his rights would not go unprotected.

Mr. Barner's family has stated that they will not be able to assist him in retaining counsel and current counsel will not be able to undertake trial representation *pro bono*. Mr. Barner also has new charges unrelated to the case *sub judice* for which a CJA panel member, Stefen Schreiner, has been appointed. Counsel respectfully suggests to the Court that counsel be allowed to withdraw and that

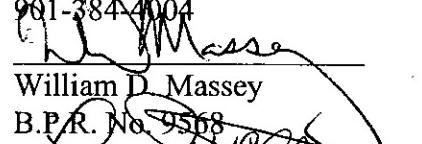
MOTION GRANTED

DATE: 5-2-2005
Bernice Bouie Donald
BERNICE BOUIE DONALD
U.S. DISTRICT JUDGE
35

Mr. Stefan Schreiner be appointed to represent Mr. Barner in this matter.

Respectfully submitted this 29th day of April, 2005.

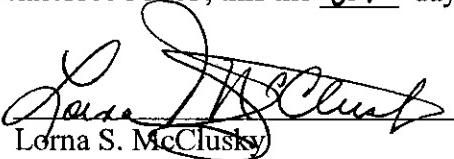
THE LAW OFFICE OF
MASSEY MCCLUSKY
3074 East Street
Memphis, TN 38128
901-384-4004


William D. Massey
B.P.R. No. 9568


Lorna S. McClusky
B.P.R. No. 16803

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and exact copy of the foregoing has been served, via hand delivery or U.S. mail, postage pre-paid, upon the office of the Assistant United States Attorney, Steve Hall, 167 N. Main, Room 800, Memphis, Tennessee 38103, this the 29th day of April, 2005.


Lorna S. McClusky



Notice of Distribution

This notice confirms a copy of the document docketed as number 35 in case 2:04-CR-20339 was distributed by fax, mail, or direct printing on May 2, 2005 to the parties listed.

Steffen G. Schreiner
LAW OFFICE OF STEFFEN G. SCHREINER
369 N. Main
Memphis, TN 38103

Lorna S. McClusky
MASSEY & MCCLUSKY
3074 East Street
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Stephen P. Hall
U.S. ATTORNEY'S OFFICE
167 N. Main St.
Ste. 800
Memphis, TN 38103

Honorable Bernice Donald
US DISTRICT COURT